

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 18

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte WILLIAM JAMES DHIMITRI and WALTER CHRISTIAN WEISS

Appeal No. 2005-0458
Application No. 09/589,049

ON BRIEF

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U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Before THOMAS, HAIRSTON, and BLANKENSHIP, Administrative Patent Judges.

BLANKENSHIP, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the examiner's rejection of claims 1-18, which are all the claims in the application.

We reverse.

BACKGROUND

The invention relates to computer-assisted drafting programs that provide "intelligent" shape objects which include plugs and sockets for automatically connecting associated shape objects together. Claims 1 and 5 are reproduced below.

1. A method of displaying information on a monitor attached to a computer, comprising:
 - (a) displaying a first object on the monitor;
 - (b) displaying a second object on the monitor;
 - (c) positioning the first object proximate to the second object on the monitor;
 - (d) changing an appearance of plugs by displaying plugs on the first object when the first object is positioned proximate to the second object, wherein the plugs indicate one or more respective attachment points on the first object;
 - (e) dynamically creating a socket on the second object when the plug of the first object is placed proximate to the second object, wherein the socket indicates an attachment point between the first object and the second object; and
 - (f) automatically coupling the second object to the first object at the attachment point.
5. The method of claim 1, further comprising deleting the created socket when the plug of the first object is no longer proximate to the second object.

The examiner relies on the following reference:

Arsenault et al. (Arsenault)	5,894,310	Apr. 13, 1999
		(filed Apr. 19, 1996)

Claim 5 stands rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.

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Claims 1-18 stand rejected under 35 U.S.C. § 102 as being anticipated by Arsenault.

We refer to the Rejection (Paper No. 10) and the Examiner's Answer (Paper No. 13) for a statement of the examiner's position and to the Brief (Paper No. 12) and the Reply Brief (Paper No. 14) for appellants' position with respect to the claims which stand rejected.

OPINION

We cannot sustain either rejection, substantially for the reasons articulated by appellants in the briefs.

In the rejection under 35 U.S.C. § 112, second paragraph, the examiner appears to contend, in the first instance, that claim 5 is an omnibus type claim. The claim is not in the traditional form of an omnibus claim; e.g., "a device substantially as shown and described." In any event, the claim does not fail to point out what is included or excluded in the subject matter. The claim includes deleting the created socket when the plug of the first object is no longer proximate to the second object.

In the responsive arguments in the Answer, the examiner submits that the claim stands rejected because of a lack of clarity as to what constitutes the proximity of the objects, and at what proximity the deletion would occur. As appellants suggest, the examiner does not indicate why claim 5 is deemed indefinite but claim 1, for example,

which sets forth occurrence of events based on proximity of plugs and objects, is deemed to pass muster under the statute.

Instant claim 5 requires that the socket created in claim 1, step (e), be deleted when the plug of the first object is no longer proximate to the second object. The “proximity” of claim 5 is defined by base claim 1 -- the “proximity” at which the socket is deleted is a distance between the plug of the first object and the second object that is greater than that existing when the plug was created.

The function of claims is (1) to point out what the invention is in such a way as to distinguish it from the prior art; and (2) to define the scope of protection afforded by the patent. In re Vamco Machine & Tool, Inc., 752 F.2d 1564, 1577 n.5, 224 USPQ 617, 635 n.5 (Fed. Cir. 1985). The legal standard for definiteness is whether a claim reasonably apprises those of skill in the art of its scope. In re Warmerdam, 33 F.3d 1354, 1361, 31 USPQ2d 1754, 1759 (Fed. Cir. 1994). The inquiry is merely to determine whether the claims do, in fact, set out and circumscribe a particular area with a reasonable degree of precision and particularity. In re Moore, 439 F.2d 1232, 1235, 169 USPQ 236, 238 (CCPA 1971). The definiteness of the language employed must be analyzed -- not in a vacuum, but in light of the teachings of the prior art and of the particular application disclosure as it would be interpreted by one possessing the ordinary level of skill in the pertinent art. Id.

While the “proximity” aspect of the claims may be broad, the language of claim 5, in our view, reasonably apprises those of skill in the art of its scope. Since the alleged

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indefiniteness of claim 5 has not been demonstrated, we do not sustain the § 112, second paragraph rejection.

With respect to the rejection of all the claims under 35 U.S.C. § 102, we consider claim 1 to be representative of the remainder of the independent claims (7 and 13), consistent with the examiner's statement of the rejection against the independent claims. We agree with appellants that steps (d) and (e) as set forth in claim 1 are not taught by Arsenault, and refer to the briefs for pointing out of the deficiencies of the reference.

Arsenault does disclose what may be called "intelligent shape objects," consistent, in general terms, with the instant disclosure. The objects may have attachment points (col. 6, ll. 1-2), and a "snap in" capability (id. at ll. 19-21) that may be related to proximity of the graphical depictions (col. 9, ll. 63-67). The objects further may have "anchor points" that may serve as references for attachment (col. 16, l. 47 - col. 17, l. 3; Figs. 10A, 10B). Object components may have a "plug" interface, but which attach to a "shape bus" conveying information to shape components of the respective object, rather than attaching to other objects (or to dynamically created sockets, as required by the claims) (col. 10, ll. 24-40; col. 4, l. 56 - col. 5, l. 7; Fig. 4).

Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim. Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 730 F.2d 1452, 1458, 221 USPQ 481, 485 (Fed. Cir. 1984). The examiner seems to admit that the claims are not

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CONCLUSION

The rejection of claim 5 under 35 U.S.C. § 112, second paragraph is reversed.

The rejection of claims 1-18 under 35 U.S.C. § 102 is reversed.

REVERSED

JAMES D. THOMAS
Administrative Patent Judge

KENNETH W. HAIRSTON
Administrative Patent Judge

HOWARD B. BLANKENSHIP
Administrative Patent Judge

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GATES & COOPER LLP
HOWARD HUGHES CENTER
6701 CENTER DRIVE WEST, SUITE 1050
LOS ANGELES, CA 90045



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